

**NOTICE: DO NOT SIGN THIS AGREEMENT BEFORE YOU READ IT OR IF IT CONTAINS ANY BLANK SPACES.**

This Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ between FCA FUND ORLANDO I, LLC, (“Owner”) and \_\_\_\_\_ of \_\_\_\_\_  
Member’s Name Company Name

for rights to use the health club facility (the “Facility”) located at the building commonly known as Gateway Center located at 1000 Legion Place, Orlando 32801 (the “Building”) as follows.

**1. MEMBERSHIP PRIVILEGES.** The Membership begins as of \_\_\_\_\_, 20\_\_\_\_ (“Membership Commencement Date”) at which time the member will have the right to use the Facility subject to the Rules and Regulations of the Facility. Prior to the Membership Commencement Date, Member must pay to Owner a one-time non-refundable fee of **\$0.00** for activation of Member’s Building access key card as described in Section 5.

**2. MEMBERSHIP TERM.** Membership is for a period commencing on the Membership Commencement Date and ending twelve months thereafter (the “Membership Period”). Upon the expiration of the Membership Period, at Owner’s option, MEMBERSHIP WILL RENEW AUTOMATICALLY FOR THE SAME NUMBER OF MONTHS AS THE INITIAL MEMBERSHIP PERIOD UNLESS YOU GIVE WRITTEN NOTICE TO THE OWNER, THIRTY DAYS PRIOR TO THE EXPIRATION OF THE APPLICABLE MEMBERSHIP PERIOD. Owner may elect not to renew the Membership, or to renew the Membership at a different Membership cost. If Membership is renewed automatically, Member shall pay to Owner Zero Dollars (\$0.00) as a Membership Cost for the renewal Membership period.

**3. ASSIGNMENT.** This Agreement may be assigned by Owner in which event the assignee will have the rights and powers of Owner. Member cannot assign his or her membership to any other person. Member’s failure to use the Facility will not relieve Member from the obligation to fully pay the prescribed Membership Cost.

**4. CANCELLATION RIGHTS.** This Agreement may be canceled by Member by sending written notice of intent to cancel within three business days after the first business day after this Agreement is signed and all monies paid pursuant to this Agreement will be refunded to Member. A business day means any day on which the Facility is open for business. Membership (a) shall be canceled automatically upon the date Owner receives notice that Member ceases to be employed at the Building, and (b) shall be canceled automatically upon the date of termination or expiration of the lease to \_\_\_\_\_ (Company Name) at the Building. Upon any such cancellation, Member shall promptly return its card key to Owner. **Owner may elect to discontinue the Fitness Center at any time. Member agrees to abide by all Facility rules and regulations, a copy of which is available from the building manager upon request. Owner reserves the right to modify the Facility rules and regulations at any time. Owner reserves the right to revoke Membership privileges for anyone failing to observe the Facility rules and regulations.**

**5. MAGNETIC CARD KEY.** The lock on the door to the Facility will be coded such that the Building access key card may be activated by Owner so as to also access the Facility. **Member shall not permit any other person (“Guest”) to use or possess such card to gain access to the Facility. Member’s Membership may be terminated if Member loans its key card to anyone for access to the Facility.**

**6. MEMBER’S RESPONSIBILITY FOR USE OF CLUB.** In all events, Member should consult with a personal physician before use of Owner’s services and Facility. Member understands and acknowledges that Owner has no expertise in diagnosing, examining or treating any medical condition. Member agrees that he or she will not use the facility with any medical condition, including open cuts, abrasions, sores, maladies or inability to maintain personal hygiene, if such person poses a direct threat to the health or safety of Member or others, and agrees to use the Facility in accordance with all applicable public health requirements. It is the responsibility of Member to consult a personal physician to determine if any of these medical conditions exist and, if so, whether such condition poses a direct threat to the health or safety of Member or others. Member agrees to abide by all rules and regulations currently in effect or which may be promulgated by the Owner relating to the operation and use of Facility.

**7. INDEMNITY. MEMBER HEREBY AGREES TO INDEMNIFY, DEFEND AND HOLD OWNER, FCA FUND ORLANDO I, FCA-III LLC, LLC, FOUNDRY COMMERCIAL, LLC AND EACH OF THEIR RESPECTIVE SHAREHOLDERS, OFFICERS, DIRECTORS, EMPLOYEES, INDEPENDENT CONTRACTORS, AGENTS, SUCCESSORS AND ASSIGNS (individually, a “PROTECTED PARTY” and collectively the “PROTECTED PARTIES”) HARMLESS FROM ANY CLAIMS OR COSTS, INCLUDING**

**REASONABLE ATTORNEY'S FEES, ASSERTED AGAINST ANY PROTECTED PARTY (A) ARISING OUT OF THE CONDUCT OF MEMBER OR ANY OF ITS GUESTS, OR (B) BROUGHT BY ANY OF MEMBER'S GUESTS. THIS INDEMNITY SHALL SURVIVE THE CANCELLATION OR TERMINATION OF THIS MEMBERSHIP AGREEMENT. Nothing in this Section 7 pertaining to Member's Guests will diminish or affect the prohibition on Guests as set forth in Section 5 above.**

**8. MEMBER RESPONSIBILITY, WAIVER AND RELEASE. MEMBER AGREES THAT ENGAGEMENT IN ANY PHYSICAL EXERCISE OR ACTIVITY OR USE OF ANY CLUB FACILITY AT THE BUILDING IS DONE AT HIS OR HER OWN RISK. THIS INCLUDES, WITHOUT LIMITATION, USE OF THE EXERCISE ROOM, LOCKER ROOM, BUILDING COMMON AREA, PARKING AREA, SIDEWALK OR ANY EQUIPMENT IN THE FACILITY AND PARTICIPATION ANY ACTIVITY, CLASS, PROGRAM OR INSTRUCTION, INCLUDING BUT NOT LIMITED TO ANY PROGRAM SPONSORED IN THE FACILITY BY INDEPENDENT CONTRACTORS RETAINED BY OWNER. MEMBER AGREES THAT PARTICIPATION IN THESE ACTIVITIES IS VOLUNTARY AND BY USE OF THE FACILITY AND PREMISES MEMBER ASSUMES ALL RISK OF INJURY, ILLNESS, DAMAGE OR LOSS TO HIS OR HER PERSON OR PROPERTY THAT MIGHT RESULT. MEMBER AGREES ON BEHALF OF HIS OR HERSELF AND MEMBER'S GUESTS (WHICH, UNDER SECTION 5, ARE PROHIBITED) AND THEIR RESPECTIVE PERSONAL REPRESENTATIVES, HEIRS, EXECUTORS, ADMINISTRATORS, AGENTS AND ASSIGNS TO RELEASE AND DISCHARGE EACH OF THE PROTECTED PARTIES FROM ANY AND ALL CLAIMS OR CAUSES OF ACTION (KNOWN OR UNKNOWN) THAT I MAY NOW HAVE OR THAT MAY ACCRUE IN THE FUTURE ARISING OUT OF OR IN CONNECTION WITH THE USE BY MEMBER OR ITS GUESTS (WHICH, UNDER SECTION 5, ARE PROHIBITED) OF THE SERVICES OR FACILITIES OF THE FACILITY OR THE BUILDING WHERE THE SAME IS LOCATED AND MEMBER HEREBY HOLDS EACH OF THE PROTECTED PARTIES HARMLESS FROM AND AGAINST ALL CLAIMS WHICH MAY BE BROUGHT AGAINST THEM BY MEMBER, ITS GUESTS (WHICH, UNDER SECTION 5, ARE PROHIBITED) OR ON MEMBERS BEHALF OR ON BEHALF OF MEMBERS GUESTS (WHICH, UNDER SECTION 5, ARE PROHIBITED) FOR ANY SUCH INJURIES OR CLAIMS. WITHOUT LIMITATION OF THE FOREGOING SENTENCE, THIS WAIVER AND RELEASE OF LIABILITY INCLUDES, WITHOUT LIMITATION, INJURIES WHICH MAY OCCUR AS A RESULT OF OR IN CONNECTION WITH (A) MEMBER'S OR ITS GUESTS USE OF ANY EXERCISE EQUIPMENT OR FACILITY WHICH MAY MALFUNCTION OR BREAK (FOR ANY REASON, INCLUDING OWNERS' IMPROPER MAINTENANCE), (B) OWNER'S INSTRUCTION OR SUPERVISION, OR LACK THEREOF (C) MEMBER OR ITS GUESTS SLIPPING AND FALLING WHILE IN OR ABOUT THE FACILITY, OR OTHER PERSONAL INJURY, (D) THE CONDUCT OF OTHER MEMBERS OR GUESTS, (E) THE CONDUCT OF ANY INDEPENDENT CONTRACTOR OF OWNER, (F) THE THEFT OR OTHER LOSS OF ANY PERSONAL PROPERTY, (G) ANY OCCURRENCE IN THE BUILDING COMMON AREA (INCLUDING THE PARKING LOT), (H) HAZARDOUS MATERIALS OR ENVIRONMENTAL MATTERS; (I) CONTAGION, AND (J) ANY OTHER LOSS OR INJURY DIRECTLY OR INDIRECTLY INCURRED BY MEMBER OR ITS GUESTS AS A RESULT OF USE OF OR PRESENCE IN THE FACILITY. MEMBER ACKNOWLEDGES CAREFUL READING OF THIS WAIVER AND RELEASE AND FULLY UNDERSTANDS THAT IT IS A RELEASE OF LIABILITY. Nothing in this Section 8 pertaining to Member's Guests will diminish or affect the prohibition on Guests as set forth in Section 5 above.**

**9. MISCELLANEOUS.** This agreement constitutes the entire and exclusive agreement between the parties and cancels and supersedes all prior promises, representations, understandings and/or agreements between the parties. This Agreement is governed by the internal laws of the State of Florida. The provisions of this Agreement are severable and if any provision is determined to be illegal or unenforceable, the remaining provisions and any partially-enforceable provision will nevertheless be enforceable. Owner's failure to enforce any remedy or provision of this Agreement may not be construed as a waiver of such remedy or provision. Any dispute between Owner and Member or their respective heirs, successors and assigns may only be litigated in the state or federal courts situated in Orange County, Florida pursuant to a bench trial; **MEMBER ON BEHALF OF MEMBER AND ITS GUESTS (which, under Section 5, are prohibited) AND THEIR RESPECTIVE HEIRS, SUCCESSORS, AND ASSIGNS WAIVES ANY AND ALL RIGHTS TO A JURY TRIAL WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT.**

Owner:

FCA Fund Orlando I, LLC

By Foundry Commercial, LLC, its Manager

By: \_\_\_\_\_

Member:

By: \_\_\_\_\_

Member Signature

Name: \_\_\_\_\_

Building Card Number: \_\_\_\_\_

**YOU ARE ENTITLED BY LAW TO AN EXACT COPY OF THIS AGREEMENT AND BY SIGNING THIS AGREEMENT YOU ACKNOWLEDGE THE RECEIPT OF THE SAME AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.**